sit down with those same men and women whom I worked with last year and see if we cannot do something about simplifying income based repayment so more students can take advantage of it, and dealing with excessive borrowing and some of the other issues we are working on in higher education.

I think we can do that 2 years in a row, and I think the American people would appreciate it if we tried.

I thank the Presiding Officer and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. HEINRICH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMEMBERING CHESTER NEZ

Mr. HEINRICH. Madam President, it is an honor to join my colleague from New Mexico, Senator TOM UDALL, in celebrating the life and service of Chester Nez, the last of the original 29 Navajo code talkers, who passed away this last Wednesday, and to honor the historic role the Native American code talkers played in the allied victory in World War II.

Our Nation's liberties and patriotic spirit were personified by the commitment and service and the legacy of Chester Nez. He was a true American hero. Chester Nez helped to create an unbreakable code during World War II. He served in the U.S. Marine Corps to protect the Nation and also his people, language, and culture. He understood the significance and the importance of his language, and he used it as a shield to defend this Nation.

Chester Nez chose to enlist in the marines at a young age, not knowing he would become part of an elite group of indigenous code talkers. Despite growing up in an era where speaking the Navajo language was not only prohibited but often punished, his fluency in both Navajo and English made him invaluable to the war effort. He was a member of the all-Navajo 382nd Marine Platoon entrusted to create a code that would prove impenetrable to the Japanese. The 382nd Marine Platoon literally changed the course of history.

After Chester Nez's service, he continued to remain silent about his instrumental role as a Navajo code talker, maintaining a quiet, modest, and humble lifestyle until the mission was declassified in 1968.

Later in life Mr. Nez shared his contributions and his experiences in World War II with younger generations. He advocated for keeping the Navajo language, its traditions, and culture alive so that future generations would know how influential the Navajo people and language were during World War II.

Thanks to Mr. Nez and his fellow code talkers, our Nation's remarkable spirit continues to thrive and we are forever grateful for their service. I join all New Mexicans in keeping Chester Nez's family and friends in our thoughts and prayers.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

KADZIK NOMINATION

Mr. GRASSLEY. Madam President, I come to the floor to speak about the nomination of Peter Kadzik to be an Assistant Attorney General for Legislative Affairs in the Justice Department. I happen to know that the majority leader hasn't yet filed cloture on this nomination, but I expect that he will in the near future. So now I take the opportunity to speak about that nomination.

It is no secret that I have concerns about Mr. Kadzik's nomination. I opposed his nomination in committee, and I will oppose it when it comes to a vote on the floor.

The reasons are pretty simple. Mr. Kadzik has been acting in that position since April 2013—in other words, in the very same position for which he has been nominated. His job is to respond to questions from Members of Congress. We have a clear track record to judge his performance, and that record has been dismal. Letters go unanswered for months. Then, when answers come, they ignore or dodge the questions.

Even before coming to the Justice Department, Mr. Kadzik had shown a lack of respect for congressional oversight. While he was in private practice, he represented the billionaire tax fugitive Marc Rich. Rich was infamously pardoned at the end of the Clinton administration following a large donation by Mrs. Rich to the Clinton Presidential Library. No fugitive has ever been pardoned before—let alone a billionaire fugitive who owed millions of unpaid taxes.

In the course of the congressional investigation into that controversy, Mr. Kadzik was subpoenaed to testify at the House hearing in 2001. He refused the committee's invitation to testify voluntarily. Then, he decided to fly to California the day before the hearing. The House committee had to send the U.S. marshals to serve him with a subpoena in California ordering him to return for the hearing. He later denied that his attorneys knew a subpoena was on the way when he got on the plane. But his denial is contradicted by handwritten notes from 2001 telephone conversations with his attorneys about the subpoena. Those notes are in the record of his confirmation hearings, and I invite any Senator to review them.

Some people might say: Well, that was a long time ago, and maybe it was just a misunderstanding.

But one thing is not in dispute even by Mr. Kadzik: He refused the House committee's request to testify voluntarily. He was unwilling to cooperate unless forced to do so by compulsory legal process. Everything in his record since then has reinforced the impression that Mr. Kadzik is simply not interested in answering questions from Congress unless he has no other choice.

He was not forthcoming during his nomination hearing on several issues, not just the Marc Rich controversy. Getting him to answer simple inquiries has required two or even three sets of questions. He wouldn't even promise to answer each individual question from members of our Judiciary Committee. Instead, he had a bad habit of grouping together a set of specific detailed questions, and then repeating one vague nonanswer over and over. In one set of responses he repeated word for word the same answer to previous questions nine times. That simply is not a good-faith effort to be responsive to each question.

When his answer was one he thought I didn't want to hear, he glossed over it. Example: At his nomination hearing, I asked Mr. Kadzik whether he intended to provide certain documents Chairman ISSA and I had requested relating to a briefing by the Bureau of Alcohol, Tobacco, Firearms and Explosives. After he failed to mention the documents in his response, I prompted him about the documents once again and he evaded the question. Only after two subsequent sets of questions for the record did Mr. Kadzik finally come clean and admit that the Department would refuse to provide those documents requested. Mr. Kadzik should have been that candid initially, instead of avoiding the issue.

His seeming inability to give straightforward and accurate answers to simple questions causes real concern for me about his ability to perform his job, of which a very important part is answering inquiries from Members of Congress. I think an Assistant Attorney General for Legislative Affairs needs to ensure that Congress receives accurate information from the Department. That is what checks and balances of our constitutional setup is all about.

This also became a problem for Mr. Kadzik's predecessor, whose false denials about Operation Fast and Furious eventually had to be retracted. This office needs leadership that will restore its credibility. Mr. Kadzik's track record in the acting position makes it clear he does not have what it takes to restore sorely needed credibility. At Mr. Kadzik's confirmation hearing last October, Senator FEINSTEIN told Mr. Kadzik that the Senate's Select Committee on Intelligence had recently received answers to questions for the record from the FBI that were over 1 year late. As she pointed out to Mr. Kadzik, ''A year is really outside the pale of propriety.''

Mr. Kadzik said in response: ''One of my missions at the Department is to improve that record and to expedite the providing of information to this Committee and all Members of Congress.'' But from what I have seen so far, Mr. Kadzik's record has been even worse than his predecessor's.

The Judiciary Committee still has not received answers to questions for the record from Attorney General Holder from an oversight hearing dating back to March 6, 2013, 14 months ago. Recently, the Judiciary Committee received answers to FBI questions for the record dated ''current as of August 26, 2013.'' According to the FBI Congressional Affairs staff, that is when the answers were forwarded to Mr. Kadzik's office. Although the FBI responses to Congress were then only 2 months old, apparently they sat in Mr. Kadzik's Office of Legislative Affairs for another 9 months.

Mr. Kadzik is just as unresponsive to letters. His staff recently acknowledged they were aware of 13 pending letters from this Senator that have gone completely unanswered. I don't mean he replied with an answer I didn't think was good enough; I mean there was simply no reply whatsoever. Some of those questions from this Senator dated back to October 2012, well over a year and a half ago. His office is completely ignoring those letters.

He did send me a couple of very weak responses in just the last few days. Each of those was essentially one paragraph long. One was a reply to a letter I sent almost 1 year ago. The other replied to a letter from January in which I asked four simple questions. They addressed Attorney General Holder's failure to issue a report on the need for reform of the FBI's whistleblower procedures.

The Attorney General was required to report to President Obama within 180 days of the Presidential directive on whistleblowers, which was issued October 2012. A little history: The FBI was exempted from whistleblower provisions in the Civil Service Act of 1978 and the Whistleblower Protection Act of 1989. That has resulted in the FBI being one of the worst retaliators against whistleblowers over the years. Therefore, the FBI report President Obama requested was an important part of the Presidential directive. I had written to the Justice Department 3 weeks after the Presidential directive in 2012 to emphasize how important it was that the directive be followed and that the FBI people have proper whistleblower protection. Then there was a 180-day deadline. That deadline came and went.

I wrote the Justice Department earlier this year asking about the report because at that time it was more than 10 months overdue. I asked the current status of the report, why they had failed to issue it so far, when it would be complete, and whether they would provide a copy to the Judiciary Committee.

So those are the simple questions I asked Mr. Kadzik. Once again, the nominee failed to send a prompt, good-faith response to my letter. Mr. Kadzik could have written immediately to say the Justice Department knows this review is important and explain why it was taking longer than they thought. Mr. Kadzik could have told me the review was expected to take several more months. Instead he waited 4 long months until the report was complete, then simply sent me a one-paragraph response, stating the report was sent to the President of the United States. He didn't try to explain why it took so long. He completely ignored my question about providing a copy of the report to our Judiciary Committee. This is not the kind of good-faith, candid response the Justice Department owes Congress, especially in our oversight capacity to see that the laws are faithfully executed by the President of the United States.

As a nominee who already works in that office, Mr. Kadzik had the opportunity to demonstrate a real commitment to the role of congressional oversight in our constitutional system of checks and balances. He could have answered the mail on time. He could have insisted on candid, good-faith, substantive replies to Congress. Rather than trying to raise the bar, he lowered it.

The attitude this nominee brings to dealing with congressional oversight and the requests we make is a symptom of much larger problems. The Justice Department has a lot of work to do to rebuild trust and confidence after the false letter it sent me on Operation Fast and Furious. It still is fighting in court to avoid turning over documents that explain its decision to ultimately withdraw the letter and admit that letter was false.

The Obama administration is arguing for a vastly expanded view of executive privilege. They want the ability to expand it far beyond direct advice a counselor would give to the President. They want it to include internal emails between lower level bureaucrats and agencies and departments. These, the administration claims, are so-called deliberative documents. They are created by people who may never even have been to the White House, let alone advise the President on anything where lawyer-client relationship can be established. That kind of broad privilege would be a massive blow to government transparency and to our system of checks and balances.

The position the Obama administration is taking in the Operation Fast and Furious lawsuit is a direct breach of the promise the President made in his first day in office. He pledged at that time to have the most transparent administration in the history of this country, but now the President's Justice Department is arguing for a massive expansion of executive privilege to include all of that so-called deliberative material. This nominee, Mr. Kadzik, is aggressively implementing that new policy even today, refusing to answer questions and withholding documents. His actions today are consistent with his history. Voluntary cooperation takes a backseat to legalism and forcing a legal confrontation.

I wish I could say Mr. Kadzik had demonstrated the kind of serious commitment to open, honest, and forthright cooperation with congressional oversight that the office needs. Unfortunately, he has not, but the failure to cooperate extends far beyond Mr. Kadzik's investigations.

We don't need to look any further than today's headlines to see the latest instance of this administration's failure to abide by its obligations under the law to submit to congressional oversight. Of course I am referring to the recent release of five of the most dangerous detainees from Guantanamo. The President's decision to release what some have called the Taliban dream team without notifying Congress in advance exemplifies this administration's contempt for congressional oversight. It is troubling for a host of reasons, especially when the stakes are so high.

In December 2013, Congress passed and the President signed the 2014 National Defense Authorization Act. Section 1035 of that law addresses the procedure the executive branch is required to follow if the President decides to release a detainee being held at Guantanamo Bay. This process isn't optional. It is not something that is a matter of Presidential discretion. It is actually required as a matter of federal law. It is required by a law this President signed.

The White House's failure to follow the law in this instance is just the latest example of this administration's blatant disregard for congressional authority. The law requires the President to notify certain House and Senate committees, including the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence, at least 30 days before Guantanamo Bay detainees are transferred or released. Obviously that did not happen.

Not only that but the law requires the President to explain ''why the transfer or release is in the national security interest of the United States.'' That didn't happen either. The President also had a legal obligation to describe any actions his administration took ''to mitigate the risks of reengagement by the individuals to be transferred or released.'' Such mitigating actions are required by the law, but that didn't happen either.

The reasons for these legal requirements are fairly obvious. The Members of this body understand and respect the President's responsibility to protect national security. That is in fact his paramount responsibility as Commander in Chief, but we too have a responsibility in this Congress and all Congresses to ensure that the national security is protected. Congress is a coequal branch of government. Yet our ability to ensure that the actions this President takes are designed to promote the national security have been thwarted because this White House kept us in the dark about the release of the five Taliban kingpins every step of the way.

The administration is fully aware it violated Federal law in failing to timely notify Congress of its intentions. We know this because the White House has contacted some of my colleagues on the Select Committee on Intelligence and apologized—actually apologized—for failing to notify them in advance; in other words, apologized for not following the law.

According to press reports the White House said the failure to make notification required by law was ''an oversight.'' An oversight? What happened is not an oversight. An oversight is what happens when you forget to send a thank-you note for a birthday gift. This was not an oversight. In other words, it is extremely difficult to view this as anything but a deliberate attempt to leave Senators in the dark. You don't simply forget to meet your legal obligations to notify Congress, and it is not as if this was some obscure provision of the law nobody knew anything about. This has always been a very big deal. Not only did the White House have an obligation to notify Congress, but the White House had previously promised that it would in fact comply with the law.

On June 21, 2013, at the White House press briefing, Press Secretary Jay Carney promised that the administration ''would not make any decision about the transfers of any detainees without consulting with Congress and without doing so in accordance with U.S. law.''

It is perfectly clear the administration was aware of its duties under the law and made a calculated and deliberate decision to ignore them. The President more or less admitted this when he recently explained at a press conference in Poland that he saw an opportunity he had to take immediately because ''we were concerned about Sgt. Bergdahl's health.''

I am sick and tired of the approach this administration takes toward its legal obligations under the law, and that is why I wrote to the Attorney General in January of this year concerning some statements the President made in the State of the Union Address, hinting that he intended to take unilateral action using executive orders.

In the letter I wrote to the Attorney General, I asked him to direct the Justice Department's Office of Legal Counsel to publicly disclose its opinions and conclusions concerning the lawfulness of executive orders issued by the President.

Here is where Mr. Kadzik comes in. In May he declined my request, citing again his overbroad and legally unsupportable claims of executive privilege.

It is not without good reason that the former executive editor of the New York Times—by the way, an outlet that is not exactly an aggressive critic of the President—called this White House the most secretive she ever covered.

So let me renew my request to the Attorney General regarding the publication of opinions from the Office of Legal Counsel. Frankly, I think my request is all the more important now that we have seen the administration's flagrant disregard for Federal law in the matter of the Taliban prisoner deal. I am, therefore, asking the Attorney General to direct the Office of Legal Counsel to make public any opinions or legal analysis concerning the lawfulness of the transfer of the Taliban commanders without compliance with section 1035 of the National Defense Authorization. But given this Department's track record, I am not going to hold my breath that that request will be honored.

I will sum up by saying this: Mr. Kadzik's nomination is a perfect example of the contempt that this—the self-professed most transparent administration in history—has for congressional oversight authority.

Let me be clear to my colleagues on the other side of the aisle. One day you folks might be in the minority or the administration might be controlled by the Republican Party. If a Republican administration ignores your oversight request, how can you complain, if you don't stand up today, when the shoe was on the other foot? If you support this kind of stonewalling now by supporting this nominee, it will come back to bite you, and, of course, you will deserve it. I plan to be around here to remind you of that.

I will vote against this nominee and urge my colleagues to do the same.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KING). The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH CARE

Mr. COATS. Mr. President, last week, the Senate confirmed Sylvia Burwell as our new Secretary of Health and Human Services. She is now the administration's main implementer and representative of ObamaCare. She is its new face and will be its primary salesperson to the American people. I think the President made a competent choice, and I supported her confirmation. But I would be remiss if I did not mention or bring to light the difficult job she has ahead of her.

From its botched website to ever increasing premiums, to canceled health insurance plans, ObamaCare has been and remains a complicated mess of broken promises and confusing implementation. I was back home in Indiana last weekend and the weekend before that, and ObamaCare, along with complaints about overregulation, remain the top two issues on people's minds. On Friday, I was in DeKalb County and Noble County up in northeast Indiana meeting with representatives of those two counties and communities and across the spectrum of people engaged in various business enterprises—housewives, small businesses, big businesses, elected officials, et cetera. In each of those discussions, as I went across those two counties, as I said, overregulation and ObamaCare were No. 1 and No. 2, or vice versa, on everyone's mind. It continues to remain on their minds because they see this as a very complicated and messy intrusion into their individual lives in terms of their ability to run their businesses. For many, it is not a question of ObamaCare not hurting them, but how it has hurt them and their concerns about how it is going to hurt them in the future.

The President promised us that this plan—quote ''will lower the cost of health care for our families, our businesses, and our government.'' Let me repeat that. The President said that ObamaCare would lower the cost of health care—which it hasn't—for our families, our businesses, and our government.

That is not what I have heard as I talk to people across the State of Indiana. What I hear from Hoosiers is their premiums have increased, they have higher health care costs, their deductibles have risen dramatically, their copays have risen, and they have fewer provider options. Remember what the President said: If like your doctor or your health plan, you can keep it, period. That is not the case, and I hear that from hundreds of Hoosiers as I travel around the State.

Let me speak about a specific story from a constituent, Jeremy, from Randolph County, who said this:

> My plan for my wife and two kids, ages 2 and 5, just increased $150 to $615 per month. We cannot afford this massive hike!

He went on to say: Something must be done to lower these plans because we are seriously going to think about not being able to have insurance for the first time since college because I simply can't afford it. It is unaffordable.

The ACA, the so-called Affordable Care Act, has been called unaffordable by so many Hoosiers—and I suspect that is true all around the country—that it ought to be the unaffordable care act and not the Affordable Care Act.

I don't know how many stories we have to bring to the floor of the Senate before my colleagues understand and realize this plan is faulty to the point that it needs to be replaced. It is deeply and fatally flawed at its very core.

I know the majority leader came to the floor and said none of these stories we have related are true. That is like telling Jeremy he doesn't exist.

I don't think he made this up: My plan for my wife and kids has just increased $150 a month to $615 a month. It is unaffordable. Americans across the country are repeating these stories. They are not made up. It is not something Republicans sits around and